

IN THE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

| | | |
|----------------------------------|---|---------------------|
| UNITED STATES OF AMERICA ex rel. |) | |
| ROOSEVELT DAVIS, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | No. 08 C 3710 |
| |) | |
| GENE JUNGWIRTH, ¹ |) | The Honorable |
| |) | George W. Lindberg, |
| Respondent. |) | Judge Presiding. |

**MOTION TO DISMISS PETITIONER'S
PETITION FOR A WRIT OF HABEAS CORPUS WITHOUT PREJUDICE
FOR FAILURE TO EXHAUST AVAILABLE STATE COURT REMEDIES**

Pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, Rule 7(b) of the Federal Rules of Civil Procedure, 28 U.S.C.

¹ Petitioner was placed on Mandatory Supervised Release (MSR) on June 25, 2008 and is currently scheduled to be released from MSR on June 25, 2010. Accordingly, petitioner's current custodian is Jesse Montgomery, Acting Chief of Parole, Illinois Department of Corrections (IDOC), and therefore Mr. Montgomery should be substituted as the proper respondent in this matter. *See* Rule 2(a) of the Rules Governing Section 2254 Cases in the United States District Courts; Fed. R. Civ. P. 25(d)(1); *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004) (citing *Hogan v. Hanks*, 97 F.3d 189, 190 (7th Cir. 1996)); *Bridges v. Chambers*, 425 F.3d 1048, 1049-50 (7th Cir. 2005).

Petitioner's placement onto MSR, a form of parole, does not deprive this Court of subject matter jurisdiction, nor does it render this case moot because parole is a form of custody. *Virsnieks v. Smith*, 521 F.3d 707, 717 n.14 (7th Cir. 2008) (citing *Jones v. Cunningham*, 371 U.S. 236, 242-43 (1963)); *see also Cochran v. Buss*, 381 F.3d 637, 640-41 (7th Cir. 2004) (per curiam); *A.M. v. Butler*, 360 F.3d 787, 790 n.3 (7th Cir. 2004) (citing 28 U.S.C. § 2254(a); *Spencer v. Kemna*, 523 U.S. 1, 7 (1998)).

§ 2254(b)(1)(A), and this Court's order of July 2, 2008, (Doc. 5), respondent GENE JUNGWIRTH moves to dismiss without prejudice petitioner's petition for a writ of habeas corpus for failure to exhaust available state court remedies, and states the following in support:

I. FACTUAL AND PROCEDURAL BACKGROUND

1. On August 18, 2005, in the Circuit Court of Cook County, petitioner was convicted of possession of a controlled substance and he was sentenced on November 8, 2005 to eight years' imprisonment. (Doc. 1 at 1); (Exhibit A at 4-5). Petitioner appealed his judgment of conviction and sentence to the Appellate Court of Illinois and argued that the State failed to: (1) prove him guilty beyond a reasonable doubt because it failed to establish a sufficient chain of custody of the narcotics; and (2) disclose exculpatory evidence, in violation of *Brady v. Maryland*, 373 U.S. 83 (1963). (Doc. 1 at 2; *People v. Davis*, No. 1-05-3786 (Ill. App. Nov. 28, 2007).² The appellate court affirmed. (*Id.*) Petitioner filed a petition for leave to appeal to the Supreme Court of Illinois (PLA), which was denied on May 29, 2008. (Doc. 1 at 2). In his § 2254 petition, petitioner states that his PLA raised claims of: (1) ineffective assistance of appellate counsel, (2) failure to establish a proper chain of custody, and (3) the *Brady* claim. (*Id.*) Petitioner has not filed a petition for a writ of certiorari in the Supreme Court of the United States. (*Id.*)

2. On March 13, 2007, petitioner filed in the state trial court a motion for

² Petitioner has attached the appellate court's opinion and the order denying his petition for leave to appeal to the Supreme Court of Illinois to his petition.

relief from judgment that was denied on June 25, 2007. (*Id.* at 4). The state trial court docket reflects that a notice of appeal was filed on July 16, 2007. (Exhibit A at 9). Petitioner's appeal is presently pending in the appellate court. (*Id.*); *see also* (Doc. 1 at 4) ("I am currently awaiting appeal on my petition for relief from judgment which appellate attorneys are awaiting to file due to not having all of the record.").

3. On June 30, 2008, petitioner filed in this Court a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, raising seven ineffective assistance of trial and appellate counsel arguments. (Doc. 1). On July 2, 2008, this Court ordered that respondent answer or otherwise plead by July 23, 2008. (Doc. 5).

4. In support of this motion, respondent attaches the following exhibit:

Exhibit A: Docket Sheet, *People v. Davis*, No. 05 CR 2672 (Circuit Court of Cook County).

II. The Petition Should Be Dismissed Without Prejudice Because Petitioner Has Not Exhausted His State Court Remedies.

"Where state remedies remain available to a habeas petitioner who has not fairly presented his constitutional claim to the state court, the exhaustion doctrine precludes a federal court from granting him relief on that claim: although a federal court now has the option of denying the claim on its merits, 28 U.S.C. § 2254(b)(2), it must otherwise dismiss his habeas petition without prejudice so that the petitioner may return to state court in order to litigate the claim." *Perruquet v. Briley*, 390 F.3d 505, 514 (7th Cir. 2004) (citing 28 U.S.C. § 2254(b)(1)(A); *Castille v. Peoples*, 489 U.S. 346, 349 (1989); *Rose v. Lundy*, 455 U.S. 509, 522 (1982)); *see also*

Muhammad v. Close, 540 U.S. 749, 751 (2004) (per curiam) (“Federal petitions for habeas corpus may be granted only after other avenues of relief have been exhausted.”) (citations omitted). Section 2254(b)’s exhaustion requirement “ensures that the state courts have the opportunity [to fully] consider federal-law challenges” in the first instance. *Duncan v. Walker*, 533 U.S. 167, 178 (2001) (citing *O’Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999); *Rose*, 455 U.S. at 518-19).

Petitioner raises seven ineffective assistance of counsel arguments in his present federal habeas petition. These claims have not been exhausted in the state courts, and therefore dismissal without prejudice is the appropriate resolution. Petitioner has an available state court remedy to assert his claims of federal constitutional error: a petition filed pursuant to the Illinois Post-Conviction Hearing Act (Act), 725 ILCS 5/122-1 *et seq.* Under the Act, a person may obtain relief if he or she “asserts that in the proceedings which resulted in his or her conviction there was a substantial denial of his or her rights under the Constitution of the United States or of the State of Illinois or both.” 725 ILCS 5/122-1(a)(1); *People v. Easley*, 736 N.E.2d 975, 984 (Ill. 2000) (“A proceeding brought under the [Act] is not an appeal of a defendant’s underlying judgment. Rather, it is a collateral attack on the judgment. The purpose of the proceeding is to resolve allegations that constitutional violations occurred at trial, when those allegations have not been, and could not have been, adjudicated previously.”); *see also People v. Pack*, 862 N.E.2d 938, 942 (Ill. 2007) (citing *People v. Correa*, 485 N.E.2d 307, 309

(Ill. 1985) (holding that individual on mandatory supervised release could file a postconviction petition).

The Act requires that a petition be filed no later than six months after the completion of the direct proceedings – in the present case the last day that petitioner could have filed a petition for a writ of certiorari to the Supreme Court of the United States. 725 ILCS 5/122-1(c). Petitioner is currently able to file a petition under the Act because the Act's time limitation has not yet expired. Petitioner's PLA was denied by the Illinois Supreme Court on May 29, 2008. (Doc. 1 at 2). Petitioner has ninety days from the May 29, 2008 to file a petition for a writ of certiorari in the Supreme Court of the United States. SUP. CT. R. 13. Finally, under the Act, petitioner has six additional months after the conclusion of the time period to file the certiorari petition. 725 ILCS 5/122-1(c). Consequently, petitioner has an available state court procedure under the Act to exhaust his federal constitutional claims until February 28, 2009. The present habeas petition should be dismissed without prejudice so that petitioner may return to state court to exhaust his claims under the Act.

Even if, as petitioner alleges, he raised an ineffective assistance of appellate counsel argument in his PLA on direct appeal, and that is the same as one raised in the present petition, this would not be sufficient to exhaust the issue in state court for purposes of federal habeas review. *See United States ex rel. Johnson v. Roth*, No. 96 C 4664, 1997 WL 83302, at *2 (N.D. Ill. Feb. 19, 1997) (citing *Crump v. Lane*, 807 F.2d 1394, 1396 (7th Cir. 1986); *People v. Vance*, 390 N.E.2d 867, 872 (Ill. 1979)

(noting that a denial of leave to appeal to the Supreme Court of Illinois is not a decision on the merits satisfying the exhaustion requirement)). And the PLA, of course, would not present any other ineffective assistance of counsel claims. Furthermore, petitioner has a pending state court proceeding that is not yet concluded. While petitioner may not be allowed to raise his present federal claims in that presently pending appeal, such a conclusion is premature and should not be reached until the state proceedings conclude. In any event, and most importantly, all of petitioner's claims are unexhausted and he has an available state remedy of the Post-Conviction Hearing Act in which he can assert them. As a result, the proper resolution is to dismiss the present petition without prejudice. *See Arrieta v. Battaglia*, 461 F.3d 861, 866 (7th Cir. 2006) (citing *Rhines v. Weber*, 544 U.S. 269, 277 (2005) (noting that *Rhines* allows for a stay instead of a dismissal in limited circumstance when there is a *mixed* federal petition containing both exhausted and unexhausted claims); *Dolis v. Chambers*, 454 F.3d 721, 724 (7th Cir. 2006). Here, there is no indication in the record that dismissing the present petition without prejudice "would effectively end any chance at federal habeas review" for petitioner, and therefore a stay is not appropriate. *See Dolis*, 454 F.3d at 725 (citing *Pace v. DiGuglielmo*, 545 U.S. 408, 416 (2005); *Newell v. Hanks*, 283 F.3d 827, 834 (7th Cir. 2002); *Post v. Gilmore*, 111 F.3d 556 (7th Cir. 1997)).

CONCLUSION

This Court should dismiss petitioner's petition for a writ of habeas corpus

without prejudice for failure to exhaust available state court remedies pursuant to 28 U.S.C. § 2254(b)(1)(A). Should this Court deny this motion, respondent requests thirty days from the entry of the Court's order denying the motion to address the merits and any procedural defenses to the claims raised in the petition.

July 22, 2008

Respectfully submitted,

LISA MADIGAN
Attorney General of Illinois

By: /s/ Charles Redfern
CHARLES REDFERN, Bar # 6283811
Assistant Attorney General
100 W. Randolph Street, 12th Floor
Chicago, IL 60601-3218
PHONE: (312) 814-3565
FAX: (312) 814-2253
EMAIL: credfern@atg.state.il.us

CERTIFICATE OF SERVICE

I certify that on July 22, 2008, I electronically filed respondent's **Motion To Dismiss Petitioner's Petition For A Writ Of Habeas Corpus Without Prejudice For Failure To Exhaust Available State Court Remedies** with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, using the CM/ECF system and on the same date mailed a copy of this document in via United States Postal Service to the following non-CM/ECF user:

Roosevelt Davis, N73889
100 Hillcrest Road
East Moline, Illinois 61244

Roosevelt Davis
7211 N. Bell, Apt. 1W
Chicago, Illinois 60645

/s/ Charles Redfern
CHARLES REDFERN, Bar # 6283811
Assistant Attorney General
100 W. Randolph Street, 12th Floor
Chicago, IL 60601-3218
PHONE: (312) 814-3565
FAX: (312) 814-2253
EMAIL: credfern@atg.state.il.us

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Page 001

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 05CR0267202

ROOSEVELT DAVIS

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION with the Clerk of the Circuit Court.

Charging the above named defendant with:

720-570/402 (A) (2) (B)

F

POSSESS 100<400 GRAMS COC

The following disposition(s) was/were rendered before the Honorable Judge(s):

| | | |
|---|---------------|----------|
| 01/31/05 IND/INFO-CLK OFFICE-PRES JUDGE ID# CR10091325 | 02/09/05 1701 | |
| 02/09/05 CASE ASSIGNED BIEBEL, PAUL JR. | 02/09/05 1706 | |
| 02/09/05 DEFENDANT NOT IN COURT BIEBEL, PAUL JR. | 00/00/00 | |
| 02/09/05 DEFENDANT ON BOND SURIA JR., FRED G. | 00/00/00 | |
| 02/09/05 APPEARANCE FILED SURIA JR., FRED G. | 00/00/00 | |
| 02/09/05 DEFENDANT ARRAIGNED SURIA JR., FRED G. | 00/00/00 | |
| 02/09/05 PLEA OF NOT GUILTY SURIA JR., FRED G. | 00/00/00 | |
| 02/09/05 MOTION FOR DISCOVERY SURIA JR., FRED G. | 00/00/00 F | 1 |
| 02/09/05 DISCOVERY ANSWER FILED SURIA JR., FRED G. | 00/00/00 | 1 |
| 02/09/05 O/C ONLY REL DEF ON C/D BOND SURIA JR., FRED G. | 00/00/00 | |
| 02/09/05 BAIL AMOUNT SET SURIA JR., FRED G. | 00/00/00 | \$ 50000 |
| 02/09/05 CONTINUANCE BY AGREEMENT SURIA JR., FRED G. | 03/09/05 | |
| 03/09/05 DEFENDANT IN CUSTODY SURIA JR., FRED G. | 00/00/00 | |
| 03/09/05 PRISONER DATA SHEET TO ISSUE SURIA JR., FRED G. | 00/00/00 | |
| 03/09/05 DEF DEMAND FOR TRIAL SURIA JR., FRED G. | 00/00/00 | |

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

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PEOPLE OF THE STATE OF ILLINOIS

VS

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The States Attorney of Cook County filed an INDICTMENT/INFORMATION

| | | |
|---|------------|----------|
| 03/09/05 WITNESSES ORDERED TO APPEAR | 00/00/00 | |
| SURIA JR., FRED G. | | |
| 03/09/05 MOTION STATE - CONTINUANCE -MS | 04/11/05 | |
| SURIA JR., FRED G. | | |
| 04/11/05 DEFENDANT IN CUSTODY | 00/00/00 | |
| SURIA JR., FRED G. | | |
| 04/11/05 PRISONER DATA SHEET TO ISSUE | 00/00/00 | |
| SURIA JR., FRED G. | | |
| 04/11/05 MOTION TO WITHDRAW AS ATTORNEY | 00/00/00 | |
| SURIA JR., FRED G. | | |
| 04/11/05 PUBLIC DEFENDER APPOINTED | 00/00/00 | |
| SURIA JR., FRED G. | | |
| 04/11/05 CONTINUANCE BY AGREEMENT | 04/25/05 | |
| SURIA JR., FRED G. | | |
| 04/25/05 DEFENDANT IN CUSTODY | 00/00/00 | |
| SURIA JR., FRED G. | | |
| 04/25/05 PRISONER DATA SHEET TO ISSUE | 00/00/00 | |
| SURIA JR., FRED G. | | |
| 04/25/05 MOTION FOR BAIL REDUCTION | 00/00/00 F | 2 |
| SURIA JR., FRED G. | | |
| 04/25/05 BAIL AMOUNT SET | 00/00/00 | \$ 30000 |
| SURIA JR., FRED G. | | |
| 04/25/05 O/C ONLY REL DEF ON C/D BOND | 00/00/00 | \$ 30000 |
| SURIA JR., FRED G. | | |
| 04/25/05 CONTINUANCE BY AGREEMENT | 05/19/05 | |
| SURIA JR., FRED G. | | |
| 05/19/05 DEFENDANT IN CUSTODY | 00/00/00 | |
| SURIA JR., FRED G. | | |
| 05/19/05 PRISONER DATA SHEET TO ISSUE | 00/00/00 | |
| SURIA JR., FRED G. | | |
| 05/19/05 CONTINUANCE BY AGREEMENT | 06/08/05 | |
| SURIA JR., FRED G. | | |
| 06/08/05 ADMONISH PER SP CT RULE 402 | 00/00/00 | |
| SURIA JR., FRED G. | | |
| 06/08/05 DEFENDANT IN CUSTODY | 00/00/00 | |
| SURIA JR., FRED G. | | |
| 06/08/05 PRISONER DATA SHEET TO ISSUE | 00/00/00 | |
| SURIA JR., FRED G. | | |

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Page 003

PEOPLE OF THE STATE OF ILLINOIS

VS

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| The States Attorney of Cook County filed an INDICTMENT/INFORMATION | | | |
| 06/08/05 MOTION FOR DISCOVERY | 00/00/00 F | | 2 |
| SURIA JR., FRED G. | | | |
| 06/08/05 MOTION TO SUPPRESS | 00/00/00 F | | 2 |
| EVIDENCE | | | |
| SURIA JR., FRED G. | | | |
| 06/08/05 MOTION TO QUASH ARREST | 00/00/00 F | | 2 |
| SURIA JR., FRED G. | | | |
| 06/08/05 WITNESSES ORDERED TO APPEAR | 00/00/00 | | |
| SURIA JR., FRED G. | | | |
| 06/08/05 CHANGE PRIORITY STATUS | R 00/00/00 | | |
| SURIA JR., FRED G. | | | |
| 06/08/05 WITNESSES ORDERED TO APPEAR | 00/00/00 | | |
| SURIA JR., FRED G. | | | |
| 06/08/05 CONTINUANCE BY AGREEMENT | 06/30/05 | | |
| SURIA JR., FRED G. | | | |
| 06/30/05 DEFENDANT IN CUSTODY | 00/00/00 | | |
| SURIA JR., FRED G. | | | |
| 06/30/05 PRISONER DATA SHEET TO ISSUE | 00/00/00 | | |
| SURIA JR., FRED G. | | | |
| 06/30/05 MOTION TO SUPPRESS | 00/00/00 D | | 2 |
| SURIA JR., FRED G. | | | |
| 06/30/05 MOTION TO QUASH ARREST | 00/00/00 D | | 2 |
| SURIA JR., FRED G. | | | |
| 06/30/05 DEF DEMAND FOR TRIAL | 00/00/00 | | |
| SURIA JR., FRED G. | | | |
| 06/30/05 WITNESSES ORDERED TO APPEAR | 00/00/00 | | |
| SURIA JR., FRED G. | | | |
| 06/30/05 MOTION STATE - CONTINUANCE -MS | 08/04/05 | | |
| SURIA JR., FRED G. | | | |
| 08/04/05 DEFENDANT IN CUSTODY | 00/00/00 | | |
| SURIA JR., FRED G. | | | |
| 08/04/05 PRISONER DATA SHEET TO ISSUE | 00/00/00 | | |
| SURIA JR., FRED G. | | | |
| 08/04/05 DISCOVERY ANSWER FILED | 00/00/00 | | 2 |
| SURIA JR., FRED G. | | | |
| 08/04/05 DISCOVERY ANSWER FILED | 00/00/00 | | 1 |
| SUPPLEMENTAL | | | |
| SURIA JR., FRED G. | | | |

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Page 004

PEOPLE OF THE STATE OF ILLINOIS

VS

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| The States Attorney of Cook County filed an INDICTMENT/INFORMATION | |
| 08/04/05 SPECIAL ORDER | 00/00/00 |
| SUBPOENA FOE 4 OFFICERS FILED | |
| SURIA JR., FRED G. | |
| 08/04/05 WITNESSES ORDERED TO APPEAR | 00/00/00 |
| SURIA JR., FRED G. | |
| 08/04/05 MOTION DEFT - CONTINUANCE - MD | 08/15/05 |
| SURIA JR., FRED G. | |
| 08/15/05 DEFENDANT IN CUSTODY | 00/00/00 |
| SURIA JR., FRED G. | |
| 08/15/05 PRISONER DATA SHEET TO ISSUE | 00/00/00 |
| SURIA JR., FRED G. | |
| 08/15/05 CONTINUANCE BY AGREEMENT | 08/17/05 |
| SURIA JR., FRED G. | |
| 08/17/05 DEFENDANT IN CUSTODY | 00/00/00 |
| SURIA JR., FRED G. | |
| 08/17/05 PRISONER DATA SHEET TO ISSUE | 00/00/00 |
| SURIA JR., FRED G. | |
| 08/17/05 TRANSFERRED | 08/17/05 1726 |
| SURIA JR., FRED G. | |
| 08/17/05 TRANSFERRED | 08/17/05 1750 |
| SURIA JR., FRED G. | |
| 08/17/05 TRANSFERRED | 08/17/05 1750 |
| TOOMIN, MICHAEL P. | |
| 08/18/05 DEFENDANT IN CUSTODY | 00/00/00 |
| BROSNAHAN, MARY MARGARET | |
| 08/18/05 PRISONER DATA SHEET TO ISSUE | 00/00/00 |
| BROSNAHAN, MARY MARGARET | |
| 08/18/05 VERDICT OF GUILTY | C001 00/00/00 |
| BROSNAHAN, MARY MARGARET | |
| 08/18/05 BAIL REVOKED | 00/00/00 |
| BROSNAHAN, MARY MARGARET | |
| 08/18/05 PRE-SENT INVEST. ORD, CONTD TO | 00/00/00 |
| BROSNAHAN, MARY MARGARET | |
| 08/18/05 CHANGE PRIORITY STATUS | M 00/00/00 |
| BROSNAHAN, MARY MARGARET | |
| 08/18/05 CONTINUANCE BY ORDER OF COURT | 09/20/05 |
| BROSNAHAN, MARY MARGARET | |

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Page 005

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 05CR0267202

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The States Attorney of Cook County filed an INDICTMENT/INFORMATION

| | | |
|--|---------------|---------|
| 09/20/05 DEFENDANT IN CUSTODY | 00/00/00 | |
| BROSNAHAN, MARY MARGARET | | |
| 09/20/05 PRISONER DATA SHEET TO ISSUE | 00/00/00 | |
| BROSNAHAN, MARY MARGARET | | |
| 09/20/05 SPECIAL ORDER | 00/00/00 | |
| PRO SE MOTION FOR INEFFECTIVE ASSISTANCE OF COUNSEL DENIED | | |
| BROSNAHAN, MARY MARGARET | | |
| 09/20/05 CONTINUANCE BY AGREEMENT | 10/06/05 | |
| BROSNAHAN, MARY MARGARET | | |
| 10/06/05 DEFENDANT IN CUSTODY | 00/00/00 | |
| BROSNAHAN, MARY MARGARET | | |
| 10/06/05 PRISONER DATA SHEET TO ISSUE | 00/00/00 | |
| BROSNAHAN, MARY MARGARET | | |
| 10/06/05 CONTINUANCE BY ORDER OF COURT | 10/24/05 | |
| BROSNAHAN, MARY MARGARET | | |
| 10/24/05 CASE ASSIGNED | 10/24/05 | 1750 |
| FORD, NICHOLAS R. | | |
| 10/24/05 DEFENDANT IN CUSTODY | 00/00/00 | |
| PALMER, STUART E. | | |
| 10/24/05 PRISONER DATA SHEET TO ISSUE | 00/00/00 | |
| PALMER, STUART E. | | |
| 10/24/05 CONTINUANCE BY AGREEMENT | 11/08/05 | |
| PALMER, STUART E. | | |
| 11/08/05 DEFENDANT IN CUSTODY | 00/00/00 | |
| BROSNAHAN, MARY MARGARET | | |
| 11/08/05 MOTION DEFENDANT - NEW TRIAL | 00/00/00 | D 2 |
| BROSNAHAN, MARY MARGARET | | |
| 11/08/05 DEF SENTENCED ILLINOIS DOC | C001 00/00/00 | |
| 8 YRS | | |
| BROSNAHAN, MARY MARGARET | | |
| 11/08/05 CREDIT DEFENDANT FOR TIME SERV | 00/00/00 | |
| 313 DYS | | |
| BROSNAHAN, MARY MARGARET | | |
| 11/08/05 DEF ADVISED OF RIGHT TO APPEAL | 00/00/00 | |
| BROSNAHAN, MARY MARGARET | | |
| 11/08/05 FINES COSTS FEES PER DRFT ORD | 00/00/00 | \$ 2629 |
| BROSNAHAN, MARY MARGARET | | |

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Page 006

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 05CR0267202

ROOSEVELT DAVIS

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION

| | | |
|---|------------|---------|
| 11/08/05 MOTION TO REDUCE SENTENCE | 00/00/00 | |
| BROSNAHAN, MARY MARGARET | | |
| 11/08/05 CHANGE PRIORITY STATUS | M 00/00/00 | |
| BROSNAHAN, MARY MARGARET | | |
| 11/08/05 NOTICE OF APPEAL FILED, TRNSFR | 00/00/00 | |
| 11/15/05 NOTICE OF NOTICE OF APP MAILED | 00/00/00 | |
| 11/15/05 HEARING DATE ASSIGNED | 11/18/05 | 1713 |
| 11/18/05 ILL STATE APPELLATE DEF APPTD | 00/00/00 | |
| BIEBEL, PAUL JR. | | |
| 11/18/05 O/C FREE REPT OF PROCD ORD N/C | 00/00/00 | |
| BIEBEL, PAUL JR. | | |
| 11/18/05 MEMO OF ORDS & NOA PICKED-UP | 00/00/00 | |
| BIEBEL, PAUL JR. | | |
| 12/01/05 APPELLATE COURT NUMBER ASGND | 00/00/00 | 05-3786 |
| 01/12/06 CLR RECD BY APP COUNSEL | 00/00/00 | |
| PUBLIC DEFENDER - ONE VOLUME | | |
| 04/21/06 REPT OF PRCDs ORD FR CRT RPT | 00/00/00 | |
| 06/29/06 SPECIAL ORDER | 00/00/00 | F 2 |
| MOTION-RELIEF OF JUDGEMENT. | | |
| 06/29/06 HEARING DATE ASSIGNED | 07/06/06 | 1750 |
| 07/13/06 M/D PETN FOR TRNSCT, COMLAW RCD | 00/00/00 | F 2 |
| 07/13/06 HEARING DATE ASSIGNED | 07/19/06 | 1716 |
| 07/19/06 CONTINUANCE BY ORDER OF COURT | 07/21/06 | |
| BROSNAHAN, MARY MARGARET | | |
| 07/21/06 CONTINUANCE BY ORDER OF COURT | 07/27/06 | |
| BROSNAHAN, MARY MARGARET | | |
| 07/27/06 CONTINUANCE BY ORDER OF COURT | 08/03/06 | |
| BROSNAHAN, MARY MARGARET | | |
| 08/03/06 DEFENDANT ON BOND | 00/00/00 | |
| BROSNAHAN, MARY MARGARET | | |
| 08/03/06 CONTINUANCE BY AGREEMENT | 08/15/06 | |
| BROSNAHAN, MARY MARGARET | | |
| 08/15/06 DEFENDANT ON BOND | 00/00/00 | |
| BROSNAHAN, MARY MARGARET | | |
| 08/15/06 SPECIAL ORDER | | |
| MOTION REINSTATE DEFENSE PETITION/POST CONVICTION | | |
| BROSNAHAN, MARY MARGARET | | |

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Page 007

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 05CR0267202

ROOSEVELT DAVIS

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION
08/15/06 SPECIAL ORDER 00/00/00

DEFENDANT HAS 45 DAYS TO RESPOND

BROSNAHAN, MARY MARGARET

08/15/06 CONTINUANCE BY ORDER OF COURT 10/05/06

BROSNAHAN, MARY MARGARET

10/05/06 DEFENDANT NOT IN COURT 00/00/00

BROSNAHAN, MARY MARGARET

10/05/06 DEFENDANT IN CUSTODY 00/00/00

BROSNAHAN, MARY MARGARET

10/05/06 SPECIAL ORDER 00/00/00

NOTICE DEFT TO RE-CHARACTERIZE HIS PETITION P.C.

BROSNAHAN, MARY MARGARET

10/05/06 CONTINUANCE BY ORDER OF COURT 11/27/06

BROSNAHAN, MARY MARGARET

11/03/06 SPECIAL ORDER 00/00/00 F 2

MOTION-RESPOND TO COURT JUDGEMENT ORDER.

11/03/06 HEARING DATE ASSIGNED 11/27/06 1716

11/16/06 SPECIAL ORDER 00/00/00 F 2

MOTION-RELEASE TRANSCRIPTS.

11/16/06 HEARING DATE ASSIGNED 11/27/06 1716

11/27/06 DEFENDANT NOT IN COURT 00/00/00

BROSNAHAN, MARY MARGARET

11/27/06 SPECIAL ORDER 00/00/00

MOTION DENIED CLERK TO NOTIFY

BROSNAHAN, MARY MARGARET

12/20/06 TRANS PROC REC/FILED CLKS OFF 00/00/00

THREE VOLUMES

12/21/06 SUPPL REPORT OF PRCD PREPARED 00/00/00

THREE VOLUMES

03/19/07 SPECIAL ORDER 00/00/00 F 2

RELIEF OF JUDGEMENT.

03/19/07 HEARING DATE ASSIGNED 03/26/07 1706

03/26/07 SPECIAL ORDER 00/00/00

ON CALL IN ERROR

CLAPS JOSEPH M

03/26/07 TRANSFERRED 03/30/07 1716

CLAPS JOSEPH M

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Page 008

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 05CR0267202

ROOSEVELT DAVIS

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION

| | | |
|---|----------|------|
| 03/30/07 DEFENDANT NOT IN COURT | 00/00/00 | |
| BROSNAHAN, MARY MARGARET | | |
| 03/30/07 SPECIAL ORDER | 00/00/00 | |
| NO FILE IN COURT | | |
| BROSNAHAN, MARY MARGARET | | |
| 03/30/07 CONTINUANCE BY ORDER OF COURT | 04/09/07 | |
| BROSNAHAN, MARY MARGARET | | |
| 04/09/07 DEFENDANT NOT IN COURT | 00/00/00 | |
| WOJKOWSKI, GREGORY J. | | |
| 04/09/07 CONTINUANCE BY ORDER OF COURT | 04/16/07 | |
| CLERK HAS ORDER FILE TWICE (NO FILE IN COURT) | | |
| WOJKOWSKI, GREGORY J. | | |
| 04/16/07 DEFENDANT NOT IN COURT | 00/00/00 | |
| BROSNAHAN, MARY MARGARET | | |
| 04/16/07 CONTINUANCE BY ORDER OF COURT | 04/18/07 | |
| BROSNAHAN, MARY MARGARET | | |
| 04/18/07 DEFENDANT NOT IN COURT | 00/00/00 | |
| BROSNAHAN, MARY MARGARET | | |
| 04/18/07 CONTINUANCE BY ORDER OF COURT | 04/20/07 | |
| BROSNAHAN, MARY MARGARET | | |
| 05/18/07 DEFENDANT NOT IN COURT | 00/00/00 | |
| BROSNAHAN, MARY MARGARET | | |
| 05/18/07 CONTINUANCE BY ORDER OF COURT | 06/08/07 | |
| BROSNAHAN, MARY MARGARET | | |
| 05/31/07 SPECIAL ORDER | 00/00/00 | F 2 |
| STATUS & DISPOSITION. | | |
| 05/31/07 HEARING DATE ASSIGNED | 06/08/07 | 1716 |
| 06/08/07 DEFENDANT IN CUSTODY | 00/00/00 | |
| FORD, NICHOLAS R. | | |
| 06/08/07 PRISONER DATA SHEET TO ISSUE | 00/00/00 | |
| FORD, NICHOLAS R. | | |
| 06/08/07 CONTINUANCE BY AGREEMENT | 06/25/07 | |
| FORD, NICHOLAS R. | | |
| 06/25/07 SPECIAL ORDER | 00/00/00 | |
| DEFENDANT PRESENT IN OPEN COURT | | |
| BROSNAHAN, MARY MARGARET | | |
| 06/25/07 SPECIAL ORDER | 00/00/00 | |
| MOTION FOR POST JUDGMENT RELIEF UNDER 2-1401 DENIED | | |
| BROSNAHAN, MARY MARGARET | | |

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Page 009

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 05CR0267202

ROOSEVELT DAVIS

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

| | |
|--|------------------|
| The States Attorney of Cook County filed an INDICTMENT/INFORMATION | |
| 06/25/07 SPECIAL ORDER | 00/00/00 |
| WRITTEN ORDER TENDERED | |
| BROSNAHAN, MARY MARGARET | |
| 07/17/07 NOTICE OF NOTICE OF APP MAILED | 00/00/00 |
| 07/17/07 HEARING DATE ASSIGNED | 07/20/07 1713 |
| 07/16/07 NOTICE OF APPEAL FILED, TRNSFR | 06/25/07 |
| 07/25/07 APPELLATE COURT NUMBER ASGND | 00/00/00 07-2012 |
| 07/26/07 COMMON LAW RECORD PREPARED | 00/00/00 07-2012 |
| ONE VOLUME | |
| 07/31/07 CLR RECD BY APP COUNSEL | 00/00/00 07-2012 |
| STATE APPELLATE DEFENDER - ONE VOLUME | |
| 08/17/07 REPT OF PRCDs ORD FR CRT RPT | 00/00/00 |
| 09/21/07 SUPPLEMENTAL CLR PREPARED | 00/00/00 07-2012 |
| 05CR0267202 472 | |
| 09/21/07 SUPPLEMENTAL CLR PREPARED | 00/00/00 07-2012 |
| 05CR0267202 472 | |
| 09/21/07 SUPPLEMENTAL CLR PREPARED | 00/00/00 07-2012 |
| ONE VOLUME SUPPLEMENTAL OF CERTAIN DOCUMENTS | |
| 09/24/07 SUPPL REC RECD BY APPL COUNSEL | 00/00/00 07-2012 |
| STATE APPELLATE DEFENDER - ONE VOLUME | |
| 03/05/08 TRANS PROC REC/FILED CLKS OFF | 00/00/00 |
| ONE VOLUME | |
| 03/07/08 REPORT OF PROCEEDINGS PREPARED | 00/00/00 07-2012 |
| ONE VOLUME | |
| 03/11/08 REPRT/PROCDS RECD BY APP ATTRY | 00/00/00 07-2012 |
| STATE APPELLATE DEFENDER - ONE VOLUME | |
| 07/09/08 SPECIAL ORDER | 00/00/00 |
| REQUESTING FREE COPIES OF PRELIMINARY HEARING TRASCRPTS | |
| WADAS, KENNETH J. | |
| 07/09/08 SUPPL REPORT OF PRCD PREPARED | 00/00/00 07-2012 |
| TWO VOLUMES 470 | |



I hereby certify that the foregoing has been entered of record on the above captioned case.

Date 07/10/08

Dorothy Brown
DOROTHY BROWN

CLERK OF THE CIRCUIT COURT OF COOK COUNTY